

Representative Doug Owens proposes the following substitute bill:

WATER EFFICIENT LANDSCAPING INCENTIVES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Doug Owens

LONG TITLE

General Description:

This bill addresses efficient use of water including incentives to install and maintain water efficient landscaping.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes water conservancy districts to receive grants to provide incentives;
- ▶ provides conditions on when an owner may receive an incentive;
- ▶ addresses rulemaking authority;
- ▶ addresses tracking of local government implementation of water use efficiency

standards; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- ▶ to the Department of Natural Resources - Water Resources, as an ongoing appropriation:
 - from the General Fund, \$3,000,000; and
- ▶ to the Department of Natural Resources - Water Resources, as a one-time



26 appropriation:

- 27 • from the General Fund, One-time, \$11,200.

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-9a-536**, as enacted by Laws of Utah 2022, Chapter 230

33 **17-27a-532**, as enacted by Laws of Utah 2022, Chapter 230

34 **73-10-37**, as enacted by Laws of Utah 2022, Chapter 50



36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **10-9a-536** is amended to read:

38 **10-9a-536. Water wise landscaping.**

39 (1) As used in this section:

40 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
41 grasses.

42 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left
43 loose and applied to the soil.

44 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water
45 through a nozzle.

46 (d) (i) "Vegetative coverage" means the ground level surface area covered by the
47 exposed leaf area of a plant or group of plants at full maturity.

48 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the
49 exposed leaf area of a tree or trees.

50 (e) "Water wise landscaping" means any or all of the following:

51 (i) installation of plant materials suited to the microclimate and soil conditions that
52 can:

53 (A) remain healthy with minimal irrigation once established; or

54 (B) be maintained without the use of overhead spray irrigation;

55 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
56 and water application; or

57 (iii) use of other landscape design features that:

58 (A) minimize the need of the landscape for supplemental water from irrigation; or

59 (B) reduce the landscape area dedicated to lawn or turf.

60 (2) A municipality may not enact or enforce an ordinance, resolution, or policy that
61 prohibits, or has the effect of prohibiting, a property owner from incorporating water wise
62 landscaping on the property owner's property.

63 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality
64 from requiring a property owner to:

65 (i) comply with a site plan review or other review process before installing water wise
66 landscaping;

67 (ii) maintain plant material in a healthy condition; and

68 (iii) follow specific water wise landscaping design requirements adopted by the
69 municipality, including a requirement that:

70 (A) restricts or clarifies the use of mulches considered detrimental to municipal
71 operations;

72 (B) imposes minimum or maximum vegetative coverage standards; or

73 (C) restricts or prohibits the use of specific plant materials.

74 (b) A municipality may not require a property owner to install or keep in place lawn or
75 turf in an area with a width less than eight feet.

76 (4) A municipality shall report to the Division of Water Resources the existence,
77 enactment, or modification of an ordinance, resolution, or policy that implements
78 regional-based water use efficiency standards established by the Division of Water Resources
79 by rule under Section [73-10-37](#).

80 Section 2. Section **17-27a-532** is amended to read:

81 **17-27a-532. Water wise landscaping.**

82 (1) As used in this section:

83 (a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed
84 grasses.

85 (b) "Mulch" means material such as rock, bark, wood chips, or other materials left
86 loose and applied to the soil.

87 (c) "Overhead spray irrigation" means above ground irrigation heads that spray water

88 through a nozzle.

89 (d) (i) "Vegetative coverage" means the ground level surface area covered by the
90 exposed leaf area of a plant or group of plants at full maturity.

91 (ii) "Vegetative coverage" does not mean the ground level surface area covered by the
92 exposed leaf area of a tree or trees.

93 (e) "Water wise landscaping" means any or all of the following:

94 (i) installation of plant materials suited to the microclimate and soil conditions that
95 can:

96 (A) remain healthy with minimal irrigation once established; or

97 (B) be maintained without the use of overhead spray irrigation;

98 (ii) use of water for outdoor irrigation through proper and efficient irrigation design
99 and water application; or

100 (iii) the use of other landscape design features that:

101 (A) minimize the need of the landscape for supplemental water from irrigation; or

102 (B) reduce the landscape area dedicated to lawn or turf.

103 (2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits,
104 or has the effect of prohibiting, a property owner from incorporating water wise landscaping on
105 the property owner's property.

106 (3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from
107 requiring a property owner to:

108 (i) comply with a site plan review or other review process before installing water wise
109 landscaping;

110 (ii) maintain plant material in a healthy condition; and

111 (iii) follow specific water wise landscaping design requirements adopted by the county,
112 including a requirement that:

113 (A) restricts or clarifies the use of mulches considered detrimental to county
114 operations;

115 (B) imposes minimum or maximum vegetative coverage standards; or

116 (C) restricts or prohibits the use of specific plant materials.

117 (b) A county may not require a property owner to install or keep in place lawn or turf in
118 an area with a width less than eight feet.

119 (4) A county shall report to the Division of Water Resources the existence, enactment,
120 or modification of an ordinance, resolution, or policy that implements regional-based water use
121 efficiency standards established by the Division of Water Resources by rule under Section
122 73-10-37.

123 Section 3. Section 73-10-37 is amended to read:

124 **73-10-37. Incentives to use water efficient landscaping.**

125 (1) As used in this section:

126 (a) "District" means a water conservancy district, as that term is defined in Section
127 73-10-32.

128 (b) "Division" means the Division of Water Resources.

129 (c) "Landscaping conversion incentive program" means a program administered by a
130 district that pays an owner a financial incentive to remove lawn or turf from a project area on
131 land owned by the owner.

132 ~~[(b)]~~ (d) (i) Except as provided in Subsection ~~[(1)(b)(ii)]~~ (1)(d)(ii), "lawn or turf"
133 means nonagricultural land planted in closely mowed, managed grasses.

134 (ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

135 ~~[(c)]~~ (e) "Owner" means an owner of private or public land where a water end user is
136 located.

137 (f) "Program guidelines" means guidelines adopted by a district for the district's
138 landscaping conversion incentive program.

139 (g) "Project area" means the area from which lawn or turf is removed and replaced with
140 water efficient landscaping.

141 ~~[(d)]~~ (h) "Water end user" means a person who enters into a water contract to obtain
142 water from a retail water provider for residential, commercial, industrial, or institutional use.

143 (2) ~~[(a) Subject to a \$5,000,000 aggregate annual cap, the]~~ The division may:

144 (a) award a grant under Subsection (3) to a district to fund financial incentives
145 provided through a landscaping conversion incentive program administered by the district; and

146 (b) provide an incentive under Subsection (4) to an owner to remove lawn or turf from
147 a project area on land owned by the owner in an area without a landscaping conversion
148 incentive program.

149 (3) (a) (i) A district may obtain a grant from the division to help fund a financial

150 incentive provided to an owner through a landscaping conversion incentive program
151 administered by the district.

152 (ii) Both the award and use of a grant under this Subsection (3) are subject to
153 Subsections (3)(b), (c), and (d).

154 (b) To obtain a grant, a district shall:

155 (i) initiate and operate a landscaping conversion incentive program;

156 (ii) limit the disbursement of grant money in the district's landscaping conversion
157 incentive program to owners that satisfy the minimum requirements of Subsection (4)(c) and:

158 (A) rules made by the division under Subsection (5)(b); or

159 (B) program guidelines approved by the division under Subsection (3)(f);

160 (iii) use the grant exclusively to fund financial incentives provided to owners that
161 remove lawn or turf from a project area in the district's landscaping conversion incentive
162 program;

163 (iv) provide an equal amount or more of matching funds for the district's landscaping
164 conversion incentive program from sources other than the grant money the district receives
165 under this section;

166 (v) file an application with the division that:

167 (A) describes the district's landscaping conversion incentive program, including
168 verification that the program can and shall implement the minimum requirements of
169 Subsection (4)(c) and either rules made by the division under Subsection (5)(b) or program
170 guidelines approved by the division under Subsection (3)(f);

171 (B) includes a copy of the program guidelines governing the district's landscaping
172 conversion incentive program;

173 (C) if the district wants to be subject to program guidelines in lieu of division rules
174 made under Subsection (5)(b), requests that the division approve the district's program
175 guidelines under Subsection (3)(f); and

176 (D) provides additional information requested by the division; and

177 (vi) enter into a contract with the division that requires the district to:

178 (A) verify that participants comply and landscaping conversion projects proposed,
179 undertaken, and completed by participants under the district's landscaping conversion incentive
180 program satisfy the requirements in this Subsection (3) and any contract before using grant

181 money for a financial incentive;

182 (B) agree not to use grant money for a financial incentive in any landscaping
183 conversion project that fails to satisfy the requirements of this Subsection (3) and either rules
184 made by the division or program guidelines approved by the division under Subsection (3)(f);

185 (C) submit to the division quarterly reports on funding status; and

186 (D) prepare and submit an annual accounting to the division on the use of grant money
187 for financial incentives in the district's landscaping conversion incentive program.

188 (c) (i) Upon expenditure of 70% of the grant money awarded to a district and an
189 accounting on the use of that grant money, a district may apply for additional grant money in
190 accordance with Subsection (3)(b).

191 (ii) The division may award a district an additional grant based on:

192 (A) the availability of grant money;

193 (B) the priority or importance of the grant proposal in relation to availability of grant
194 money, the division's landscaping conversion incentive program under this Subsection (3),
195 other landscaping conversion incentive program grant requests, and regional needs and goals;

196 (C) the effectiveness of the district's landscaping conversion incentive program in
197 incentivizing owners to convert lawn or turf to water efficient landscaping;

198 (D) the district's previous compliance with this Subsection (3) and contract terms and
199 conditions; and

200 (E) any matter bearing on the district's ability to responsibly handle and disperse grant
201 money consistent with this Subsection (3) and contract terms and conditions.

202 (d) A district awarded grant money under this Subsection (3) may not use grant money
203 to pay an incentive that exceeds the maximum amounts established by the division by rule
204 under Subsection (5)(c).

205 (e) Nothing in this section prohibits a district from expending non-grant money,
206 including matching money, under the district's landscaping conversion incentive program to:

207 (i) assist an owner that does not satisfy Subsection (4)(c); or

208 (ii) provide an incentive that exceeds a maximum amount established by the division
209 for grant money under Subsection (3)(d).

210 (f) The division may approve a request from a district under Subsection (3)(b)(v)(C) to
211 use program guidelines in lieu of rules made by the division under Subsection (5)(b) if the

212 division determines that the district's program guidelines will:

213 (i) result in at least as much water use savings as rules made under Subsection (5)(b);

214 and

215 (ii) accomplish the same objectives as rules made under Subsection (5)(b).

216 (4) (a) In an area without an existing landscaping conversion incentive program, the
217 division may provide an incentive to an owner to remove lawn or turf from land owned by the
218 owner and replace the lawn or turf with [~~drought resistant~~] water efficient landscaping.

219 (b) If the division provides an incentive under this [~~section~~] Subsection (4), the
220 division shall provide the incentive in the order that an application for the incentive is filed.
221 The division may terminate an application if the division determines that the owner has not
222 completed the project within 12 months of the date on which the owner files the application for
223 the incentive.

224 (c) To be eligible for an incentive under this [~~section~~], Subsection (4):

225 (i) the owner shall at the time the owner applies for the incentive:

226 [~~(i)~~] (A) have living lawn or turf, as determined by the entity providing the incentive,
227 on the land owned by the owner that the owner intends to replace with [~~drought resistant~~] water
228 efficient landscaping; and

229 [~~(ii)~~] be in good standing with a retail water provider so that the owner has no unpaid
230 water bills; and

231 [~~(iii)~~] (B) participate voluntarily in the removal of the lawn or turf in that the removal
232 is not required by governmental code or policy[.];

233 (ii) the property where the project area is located, is located within:

234 (A) a municipality that implements regional-based water use efficiency standards
235 established by the division under Subsection (5)(d); or

236 (B) an unincorporated area of a county that implements regional-based water use
237 efficiency standards established by the division under Subsection (5)(d); and

238 (iii) the owner shall agree to:

239 (A) maintain water efficient landscaping and a drip irrigation system installed in the
240 project area and not reinstall lawn or turf or overhead spray irrigation in the project area after
241 receipt of a payment under this section to incentivize conversion of lawn or turf to water
242 efficient landscaping; or

243 (B) return to the division or to a district the payments received for removal of lawn or
244 turf from the project area.

245 (d) An owner may not receive an incentive under this section if the owner has
246 previously received an incentive under this section for the same ~~[property]~~ project area.

247 (e) ~~[The division may not provide an owner]~~ An owner may not receive an incentive
248 under this [section] Subsection (4) in an amount [greater than 50% of the cost of replacing the]
249 that exceeds:

250 (i) the maximum amount established by the division in rule, as provided in Subsection
251 (5) for each square foot of lawn or turf [with drought resistant] converted to water efficient
252 landscaping; or

253 (ii) the maximum aggregate amount established by the division in rule as provided in
254 Subsection (5).

255 ~~[(3)]~~ (5) The division ~~[may]~~ shall make rules, in accordance with Title 63G, Chapter 3,
256 Utah Administrative Rulemaking Act:

257 (a) establishing the process by which:

258 (i) a district obtains a grant under Subsection (3); or

259 (ii) an owner obtains an incentive under [this section; and] Subsection (4);

260 (b) defining what constitutes [drought resistant] water efficient landscaping[-];
261 including what irrigation is used after conversion to water efficient landscaping;

262 (c) establishing for funding under this section, the maximum incentive from grant
263 money allowable for each square foot of lawn or turf converted to water efficient landscaping
264 or a maximum aggregate amount; and

265 (d) establishing for purposes of this section regional-based water use efficiency
266 standards designed to reduce water consumption and conserve culinary and secondary water
267 supplies.

268 (6) This section does not prohibit a municipality or county from adopting landscaping
269 standards that would result in greater water efficiency than provided by division rule made
270 under Subsection (5) if the standards do not conflict with this section or division rules.

271 (7) The division shall maintain a public website that, at a minimum, provides the status
272 of a municipal or county ordinance, resolution, or policy that implements regional-based water
273 use efficiency standards as described in Subsection (4)(c)(ii).

274 Section 4. **Appropriation.**

275 The following sums of money are appropriated for the fiscal year beginning July 1,
276 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for
277 fiscal year 2024. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
278 Act, the Legislature appropriates the following sums of money from the funds or accounts
279 indicated for the use and support of the government of the state of Utah.

280 ITEM 1

281 To Department of Natural Resources - Water Resources

282 From General Fund 3,000,000

283 From General Fund, One-time 11,200

284 Schedule of Programs:

285 Planning 3,011,200

286 The Legislature intends that the Division of Water Resources use the \$3,000,000
287 ongoing appropriation for incentives to use water efficient landscaping as outlined in Section
288 [73-10-37](#).

289 Section 5. **Effective date.**

290 If approved by two-thirds of all the members elected to each house, this bill takes effect
291 upon approval by the governor, or the day following the constitutional time limit of Utah
292 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
293 the date of veto override.